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by one of the married parties of an offence known to have been committed by the other against the marriage, on the condition of being continually afterwards treated by the other with conjugal kindness. While the condition remains unbroken there can be no divorce, but a breach of the condition revives the original remedy.

3. HUSBAND AND WIFE—*Divorce—Cruelty—Condonation*. Cruelty consists of successive acts of ill-treatment, if not of personal injury; so that something of a condonation of earlier ill-treatment must in such cases necessarily take place. It is cumulative, admitting of degrees and augmenting by addition. It may be condoned and even forgiven for a time and up to a certain point, without barring the right to bring it all forward when the continuance of it has rendered it no longer condonable.

4. HUSBAND AND WIFE—*Divorce—Cruelty—Condonation*. While acts of violence of a husband which have been condoned cannot be made the sole foundation for a divorce, they form the subject of investigation and proof in order to determine what is the true issue in the case, that is, whether the wife can, with safety to her person and health, continue to live with him.

5. HUSBAND AND WIFE—*Divorce—Cruelty—Charge of adultery*. A malicious charge of adultery made by one consort against the other, standing absolutely alone, is not sufficient to justify a divorce, but when presented with other facts enhancing its enormity is a gross act of cruelty. The evidence in the case in judgment establishes a plain case of cruelty and reasonable apprehension of bodily hurt.

6. HUSBAND AND WIFE—*Divorce—Custody of children*. The innocent parent on whose prayer a divorce is granted is usually entitled to the custody of the children. A woman compelled by her husband to resort to a divorce ought not to obtain it at the expense of losing the society of her children; and as one who has done well or ill in the marriage relation will be likely to do the same in the parental, all courts lean to the innocent parent when determining the custody of the child.

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FRANKLIN COUNTY AND OTHERS V. GILLS & JOHNSON.—Decided at Staunton, September 15, 1898.—*Buchanan, J.*

1. COUNTY PROPERTY—*Lease for private purposes—Powers of judge of county court*. The judge of a county court has no authority to authorize or assent to a lease of county property, acquired for county purposes, to any person for private use, or for any purposes other than those provided by law. The judge of the county court is a mere agent of the county in respect to county property, whose duties and powers are prescribed by law, and all contracts made by him in respect to said property, not authorized by statute, are void.

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GISH'S EX'OR V. JAMISON.—Decided at Staunton, September 15, 1898.—*Riely, J.*

1. SPECIFIC PERFORMANCE—*When refused*. An application for specific performance is addressed to the sound judicial discretion of the court, governed by established principles. The party seeking performance must show himself to